

DISCLAIMER

This electronic version of an SCC order is for informational purposes only and is not an official document of the Commission. An official copy may be obtained from the [Clerk of the Commission, Document Control Center](#).

COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, JANUARY 16, 2002

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUE010422

Ex Parte: In the matter concerning
the Rules Governing Certification and
Maintenance of Notification Centers

ORDER SETTING HEARING

On November 14, 2001, the State Corporation Commission ("Commission") entered an Order that, among other things, directed the Commission's Division of Information Resources to publish notice of the Commission's Division of Energy Regulation's ("Staff") proposed Rules for the certification and maintenance of notification centers and invited interested persons to comment or request a hearing on these Rules. As the November 14 Order noted, the proposed Rules were developed by the Staff in its report, which was filed on November 9, 2001. This report summarized the comments filed in response to the Commission's July 30, 2001, Order, reviewed national "best practices" relative to a notification center's operation, proposed specific revisions and additions to the existing Rules Governing the Certification of Notification Centers adopted in Case No. PUE900033, and discussed the proposed Rules.

In response to the Commission's November 14, 2001, Order Prescribing Notice and Inviting Comments, the Commission received ten comments from parties that included vendors assisting the existing notification centers, the currently certificated notification centers, and operators. The Virginia Underground Utility Protection Service, Inc. ("VUUPS"), and Northern Virginia Utility Protection Service, Inc. ("NVUPS"), filing jointly, and One Number Information Systems, Inc. ("ONIS"), requested a hearing on various rules proposed by the Staff. Many of those filing comments reserved the right to participate in any further proceedings in this matter.

In their joint comments, VUUPS and NVUPS requested a public hearing so that they could present testimony demonstrating that the public interest would be served best if certificates are held by broad-based entities, representative of and supported by the operators of underground facilities, which have the incentive and authority to operate notification centers effectively and efficiently.

ONIS requested a hearing in order to offer evidence on the composition of the governing board of the notification centers and Staff's proposed Rule 20 VAC 5-300-90(P), which addresses the notification center's governing body. ONIS contends that much of the evidence that supports maintaining the status quo with respect to call center governance, i.e., a governing body

that does not include all stakeholders, is anecdotal. ONIS comments that a hearing in which all interested stakeholders have the opportunity to present their experiences to the Commission will afford the Commission the appropriate opportunity to consider the Commonwealth's history with privately operated call centers and whether it is necessary to adopt the proposed rule addressing the governance of a notification center.

NOW UPON consideration of the foregoing, the Commission is of the opinion and finds that a public hearing should be convened to receive evidence relevant to the Rules proposed in this proceeding, together with any revisions thereto. Such a proceeding will serve to develop and clarify the changes to the proposed Rules now under consideration, as well as offer an opportunity for the Staff and interested parties to suggest any additional revisions to the Rules. In this regard, we find that the Staff should prefile an original and fifteen (15) copies of direct testimony addressing the proposed Rules and the comments filed on the proposed Rules and proposing any additional revisions to the proposed Rules. The Staff should serve a copy of its direct testimony upon those parties filing comments on the proposed Rules appended to the November 14, 2001, Order Prescribing Notice and Inviting Comments. We further find that those filing comments in response to the November 14, 2001,

Order Prescribing Notice and Inviting Comments should have an opportunity to prefile direct testimony concerning the proposed Rules or, in the alternative, to adopt their comments as their prefiled testimony and that the Staff should have an opportunity to file rebuttal testimony responsive to the direct testimony or comments sponsored by these parties.

Accordingly, IT IS ORDERED THAT:

(1) A public hearing is scheduled for March 6, 2002, at 10:00 a.m. in the Commission's Second Floor Courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia, for the purpose of receiving evidence relevant to the Rules proposed in Appendix 1 of the Commission's November 14, 2001, Order Prescribing Notice and Inviting Comments.

(2) On or before February 5, 2002, the Commission Staff shall file with the Clerk of the Commission an original and fifteen (15) copies of the direct testimony that it intends to present regarding the proposed Rules, the comments thereon, and any additional revisions thereto, as appropriate. The Staff shall mail a copy of its testimony to each party filing comments in response to the Commission's November 14, 2001, Order Prescribing Notice and Inviting Comments.

(3) On or before February 5, 2002, the Staff shall make copies of its November 9, 2001, Staff Report and prefiled direct testimony filed in this matter available for public inspection

in the Commission's Document Control Center located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday. In the alternative, these documents may be ordered from Massoud Tahamtani, Assistant Director, Division of Energy Regulation, State Corporation Commission, P.O. Box 1197, Richmond, Virginia 23218.

(4) On or before February 15, 2002, those persons filing comments in response to the Commission's November 14, 2001, Order Prescribing Notice and Inviting Comments who wish to participate in the public hearing to be convened herein shall file an original and fifteen (15) copies of its direct testimony, referring to Case No. PUE010422, with the Clerk of the Commission at the address set forth below and shall serve a copy of the same upon counsel for the Commission Staff, Sherry H. Bridewell, Esquire, Office of General Counsel, State Corporation Commission, P.O. Box 1197, Richmond, Virginia 23218, and all other parties of record. Any corporate entity that wishes to file pleadings or papers or enter an appearance in this proceeding must be represented by legal counsel in accordance with the requirements of Rules 5 VAC 5-20-20 and 5 VAC 5-20-30 of the Commission's Rules of Practice and Procedure.

(5) Any party desiring to adopt the comments it has filed as its testimony at the hearing and not planning to add any

additional comments or testimony shall notify the Clerk of the Commission in writing, referring to Case No. PUE010422, of such intent and shall identify in said document the name, business address, and business affiliation of the witness who will sponsor the previously filed comments as testimony at the March 6, 2002, hearing. All parties shall comply with the requirements of Rules 5 VAC 5-20-20 and 5 VAC 5-20-30 of the Commission's Rules of Practice and Procedure regarding representation by counsel.

(6) On or before February 15, 2002, those parties that filed comments in response to the Commission's November 14, 2001, Order Prescribing Notice and Inviting Comments and who wish to further comment in writing on the Staff's direct testimony and proposed Rules may do so by directing an original and five (5) copies of such comments to the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Such comments must refer to Case No. PUE010422. Parties filing such comments shall serve a copy of the same on or before February 15, 2002, on counsel for the Staff at the address set forth in Ordering Paragraph (4) herein. Any person desiring to make a statement at the public hearing concerning the proposed Rules need only appear at the Commission's Second Floor Courtroom at 9:45 a.m. on the day of

the hearing and identify himself or herself to the Bailiff as a public witness.

(7) On or before February 25, 2002, the Staff shall file with the Clerk of the Commission an original and fifteen (15) copies of all testimony it expects to introduce in rebuttal to all of the direct prefiled testimony and comments of the parties thereto. Additional rebuttal evidence may be presented without prefilings provided it is presented in response to evidence which was not prefiled but elicited at the time of the hearing and, provided further, the need for additional rebuttal evidence is timely addressed by motion during the hearing and leave to present evidence is granted by the Commission. A copy of the Staff's prefiled rebuttal evidence shall be promptly mailed to all parties filing direct testimony or comments in response to this Order.